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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,378	01/09/2004	Bindu Rama Rao	200701924-2	7763
22879	7590	05/17/2010		
HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528			EXAMINER AGWUMEZIE, CHARLES C	
			ART UNIT 3685	PAPER NUMBER
			NOTIFICATION DATE 05/17/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/754,378

Applicant(s)

RAO ET AL.

Examiner

CHARLES C. AGWUMEZIE

Art Unit

3685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 05/10/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgments

1. Applicant's amendment filed on February 25, 2010 is acknowledged. Accordingly claims 1-2, and 4-40 remain pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-2 and 4-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 1-2, and 4-40**, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification as originally filed contains no support for "thereby avoiding testing of each notification". There are new claims without support in the specification. This is the first instance of this invention that is unrelated and unsupported by the original filing. Cancellation of the new matter is required.

Applicant's amendments/arguments filed February 25, 2008 have been considered but are deemed without merit since the applicant argues an invention lacking support in the specification and based entirely on new matter.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claim 26** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically it would be unclear to one of ordinary skill in the art to understand what applicant meant by "upon determining that a notification received in the electronic device is authorized authentic" What is authorized authentic? Does applicant mean one or the other?

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-2, and 4-40**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al (hereinafter "Cheng") U.S. Patent No. 2006/0282834 A1

in view of Sadwosky U.S. Patent No. 6,123,737 and further in view of Peng U.S. Patent Application Publication No. 2001/0052052 A1

9. As per **claims 1 and 20**, Cheng discloses a method of updating, the method comprising:

Informing a notification history server of notifications sent by various senders of updates to a mobile electronic device, the notification history server keeping a record of all verified and unverified notifications, the notifications history server being distinct from the various senders and a device management server managing the mobile electronic device (*see fig. 1, which discloses service provider computer system 102 and software vendor computer system 103; 0109, which discloses alternatively software vendors who contract with the service provider may provide the information about their software products and software updates ...directly to the service provider or to update database 709; 0012*);

receiving a notification in the electronic device that an update is available from a particular sender (*0109; 0115, which discloses that when a new software update or software product is available, the service provider computer 102 sends an email to those users who have requested notification by email...*); and

determining authorization of the received notification in the mobile electronic device, by sending, by the mobile electronic device, information retrieved from the

received notification to the notification history server, and determining by comparison whether the notification history server has previous verified or unverified records of the notification from a particular sender using information sent by the electronic device thereby avoiding testing of each notification;

the mobile electronic device downloading the available update from the particular sender if the notification history server confirms having the verified record of notification from the particular sender of the notification (*0115, which discloses that if the software updates are approved by the user, the client application 104 downloads the software update, verifies its integrity...*) and

the mobile electronic device ignoring the available update from the particular sender if the notification history server confirms having an unverified record of the notification from the particular sender of the notification

10. What Cheng does not explicitly teach is:

determining authorization of the received notification in the mobile electronic device, by sending, by the mobile electronic device, information retrieved from the received notification to the notification history server, and determining by comparison whether the notification history server has previous verified or unverified records of the notification from a particular sender using information sent by the electronic device thereby avoiding testing of each notification; and

the mobile electronic device ignoring the available update from the particular sender if the notification history server confirms having an unverified record of the notification from the particular sender of the notification

11. Sadowsky discloses the method comprising:

determining authorization of the received notification in the mobile electronic device, by sending, by the mobile electronic device, information retrieved from the received notification to the notification history server, and determining by comparison whether the notification history server has previous verified or unverified records of the notification from a particular sender using information sent by the electronic device thereby avoiding testing of each notification (*see figs. 3, which discloses authentic and valid 64; see fig. 4, which discloses push notification? ... package authentic?; col. 4, lines 40-50, which discloses that the authenticity of the e-mail notification package 12 is tested ... if the package 12 is found to be non-authentic, processing is terminated...*)

12. Peng discloses the method comprising:

the mobile electronic device ignoring the available update from the particular sender if the notification history server confirms having an unverified record of the notification from the particular sender of the notification (*see 0061, which discloses that "if not, the update notification is ignored"*)

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Cheng and incorporate the method

comprising determining authorization of the received notification in the mobile electronic device, by sending, by the mobile electronic device, information retrieved from the received notification to the notification history server, and determining by comparison whether the notification history server has previous verified or unverified records of the notification from a particular sender using information sent by the electronic device thereby avoiding testing of each notification; and the mobile electronic device ignoring the available update from the particular sender if the notification history server confirms having an unverified record of the notification from the particular sender of the notification in view of the teachings of Sadowsky and Peng respectively in order to ensure that the notice message is from the authorized vendor.

13. As per **claim 2**, Cheng further discloses the method, further comprising:
simultaneously informing the notification history server that a notification has been sent to the electronic device (see fig. 1; 0115).

14. As per **claims 4 and 34**, Cheng failed to explicitly disclose the method, further comprising:

ignoring the notification in the electronic device upon determining that the notification is unverified;

recording that an unverified notification has been received; and
waiting to receive another notification in the electronic device.

Peng discloses the method comprising

ignoring the notification in the electronic device upon determining that the notification is unverified (0061);

recording that an unverified notification has been received (0061); and
waiting to receive another notification in the electronic device (0061).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Cheng and incorporate the method comprising ignoring the notification in the electronic device upon determining that the notification is unverified; recording that an unverified notification has been received; and
waiting to receive another notification in the electronic device in view of the teachings of Peng in order to that appropriate update is received

15. As per **claim 5**, Cheng further discloses the method, further comprising:

determining identification information of a server and update package associated with the notification upon determining that the notification received in the electronic device is verified (0012; 0040; 0079; 0082, which discloses identifying the location of the relevant updates files).

16. As per **claim 6**, Cheng further discloses the method, further comprising:

retrieving the update package (0082, which discloses downloads the software update files); and

performing an update of at least one of firmware and software resident in the electronic device (0083, which discloses that the software update is then installed).

17. As per claims 7 and 30, Cheng further discloses the method, wherein the notification comprises one of a short message service (SMS) notification, an instant messaging (IM) notification, an email notification, a wireless application protocol (WAP) push message notification, and an enhanced messaging service (EMS) notification (0037; 0114, which discloses by email or other electronic communication mechanisms).

18. As per claim 8 and 23, both Cheng and Sadowsky failed to explicitly disclose the method, wherein the electronic device comprises one of a mobile cellular phone handset, a personal digital assistant, a pager, an MP3 player, and a digital camera.

Peng discloses the method, wherein the electronic device comprises one of a mobile cellular phone handset, a personal digital assistant, a pager, an MP3 player, and a digital camera (see fig. 1, which discloses mobile devices 110A-110C).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Sadowsky and incorporate the method wherein the electronic device comprises one of a mobile cellular phone handset, personal digital assistant, pager, MP3 player, and a digital camera in view of the teachings of Peng in order to identify the equipment employed.

19. As per claims 9 and 27, Cheng failed to explicitly disclose the method, wherein determining the authorization of the notification in the electronic device further comprises determining whether the notification was sent from an authorized server.

Sadowsky discloses the method, wherein determining the authorization of the notification in the electronic device further comprises determining whether the notification was sent from an authorized server (col. 4, lines 40-50)

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Cheng and incorporate method, wherein determining the authenticity of the notification in the electronic device further comprises determining whether the notification was sent from an authorized server in view of the teachings of Sadowsky in order to ensure that the notice message is from the authorized vendor.

20. As per claims 10 and 28, Cheng further discloses the method, wherein an authorized server comprises one of a management server and a customer care center (see fig. 1).

21. As per claims 11 and 32, Cheng further discloses the method, wherein the notification comprises location and identification information regarding a management server providing access to an update package and information regarding the update package (0034, 0043; 0082).

22. As per claims 12 and 33, Cheng further discloses the method, wherein location and identification information comprise at least one of a universal resource locator (URL), an internet protocol (IP) address, a dynamic security key, end-user data,

program update information, download scheduling information, and notification protocol information (see fig. 12; 0043; 0082).

23. As per claims 13 and 40, Cheng further discloses the method, further comprising retrieving an update package from a default management server by accessing an address of the default management server when no server address information is included in the notification, the address of the default management server being provisioned in the electronic device during a bootstrap provisioning event (see fig. 1; 0043).

24. As per claim 14, Cheng failed to explicitly disclose the method, wherein retrieving the update package from the default management server is performed after authentication of the notification message.

Sadowsky discloses the method, wherein retrieving the update package from the default management server is performed after authentication of the notification message (col. 4, lines 40-50)

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Cheng and incorporate method, wherein retrieving the update package from the default management server is performed after authentication of the notification message in view of the teachings of Sadowsky in order to ensure that the notice message is from the authorized vendor.

25. As per **claim 15**, Cheng further discloses the method, further comprising:
retrieving an update package via a download agent in the electronic device (see fig. 2; 0082); and
updating at least one of firmware and software in the electronic device via an update agent in the electronic device (see fig. 2; 0083).

26. As per **claims 16 and 37**, Cheng further discloses the method, further comprising preventing unauthorized updates of at least one of firmware and software in the electronic device (see fig. 12).

27. As per **claims 17 and 38**, Cheng failed to explicitly disclose the method, wherein preventing unauthorized updates further comprises:

when a notification sent to the electronic device is discernable by an end-user and the end-user is prompted to initiate an update process, and when the end-user initiates the update process, the electronic device is adapted to determine the authorization of the notification, and abort the update process if the notification is determined to be unverified, and permit the update package to be downloaded, if the notification is determined to be verified.

Sadowsky discloses the method, wherein preventing unauthorized updates further comprises:

when a notification sent to the electronic device is discernable by an end-user and the end-user is prompted to initiate an update process, and when the end-user

initiates the update process, the electronic device is adapted to determine the authorization of the notification, and abort the update process if the notification is determined to be unverified, and permit the update package to be downloaded, if the notification is determined to be verified (col. 4, lines 40-50).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Cheng and incorporate method, wherein preventing unauthorized updates further comprises: when a notification sent to the electronic device is discernable by an end-user and the end-user is prompted to initiate an update process, and when the end-user initiates the update process, the electronic device is adapted to determine the authorization of the notification, and abort the update process if the notification is determined to be unverified, and permit the update package to be downloaded, if the notification is determined to be verified in view of the teachings of Sadowsky in order to ensure that the notification message is from the authorized vendor.

28. As per claims 18 and 39, Cheng further discloses the method, wherein preventing unauthorized updates further comprises:

receiving a dynamic key component from a management server in the electronic device (0092; 0117);

accessing a static key component from memory in the electronic device (0117);

and

instructing a download agent to use the dynamic key component and the static key component to generate a security key, wherein the generated security key facilitates access to a downloadable update package in an update package repository if the electronic device is authorized access to the update package, otherwise the electronic device is denied access to the update package (0082; 0092).

29. As per **claim 19**, Cheng further discloses the method, further comprising:

provisioning an address of a management server in the electronic device during a bootstrap provisioning event by sending a notification, the notification comprising server address information, and wherein the electronic device is adapted to access and employ the address of the management server provisioned in the electronic device after the bootstrap provisioning event (0034).

30. As per **claim 21**, Cheng further discloses the network, wherein the electronic device at least comprises:

non-volatile memory (fig. 1, client computer);

a short message entity; random access memory; and security services (fig. 1).

31. As per **claim 22**, Cheng further discloses the network, wherein the non-volatile memory in the electronic device at least stores:

an update agent (fig. 2);

a firmware and real-time operating system (fig. 4);

an operating system layer (fig. 4);
a download agent or browser (fig. 4); and
an end-user related data and content (see fig. 4).

32. As per **claim 24**, Cheng further discloses the network, wherein the electronic device is adapted to receive notifications informing the electronic device of availability of update packages at the management server (0005; 0007; 0037)

33. As per **claim 25**, Cheng further discloses the network wherein the notification history server is adapted to determine whether a notification is authorized by examining message identification information in the notifications (0038, which discloses properly authorized by the service provider can obtain updates for software products).

34. As per **claim 26**, Cheng further discloses the network, wherein the electronic device is adapted to download an update package from an update package repository using an update agent upon determining that a notification received in the electronic device is authorized authentic (0037).

35. As per **claim 29**, Cheng further discloses the network, further comprising a short message center (SMC) adapted to store and forward messages to and from the electronic device, wherein the short message center (SMC) is adapted to send, upon

instruction from the management server or a customer care center, notifications to the electronic device regarding availability of update packages (0005; 0007; 0037).

36. As per claim 31, Cheng further discloses the network, wherein notifications further comprise at least one user data field containing message identification information (0037).

37. As per claim 35, Cheng further discloses the network, wherein the management server comprises the notification history server and an update package repository (fig. 1).

38. As per claim 36, Cheng further discloses the network, wherein the notification history server is incorporated into a short message center in the network (see fig. 1).

Conclusion

39. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on **(571) 272 – 6709**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charlie C Agwumezie/
Primary Examiner, Art Unit 3685
May 11, 2010

